

**Starkweather & Associates**

9035 South 1300 East, Suite 200

Sandy, UT 84094

Ph: (801) 272-8368

Fax: (801) 748-1030

**FAX COVER SHEET****RECEIVED  
CENTRAL FAX CENTER**

NOV 01 2005

**DATE:** November 1, 2005  
**FAX #:** 1-571-273-8300  
**TO:** Office of Petitions  
**FROM:** Diann Herring, Assistant to Michael Starkweather  
**RE:** Reply to Decision on Petition mailed 10-26-05 for Ronald Nasco

Number of Pages including cover page: 6

Docket No. 3023.2.1 CIP (mistakenly noted as 2.6)  
Client Ronald Nasco  
Serial No. 10/634,189 Filing Date Aug. 4, 2003  
Assignee/Mark \_\_\_\_\_  
Date Faxed November 1, 2005

*Please acknowledge receipt of:*

- ☐ Application \_\_\_\_\_ Pages  
☐ Provisional ☐ Design ☐ Cont. ☐ Div. ☐ RCB  
☐ Utility Total Claims \_\_\_\_\_ Indep Claims \_\_\_\_\_  
☐ Drawings \_\_\_\_\_ Sheets \_\_\_\_\_ Figures \_\_\_\_\_  
☐ Assignment ☐ Cover Sheet ☐ Fee  
☒ Certificate of Transmission  
☒ Credit Card Payment Form, PTO-2038, for \$ 40.00  
☒ Fee Transmittal  
☐ Copy of Signed Fee Transmittal  
☒ Transmittal Letter or Form  
☐ Declaration and Power of Attorney  
☐ IDS, ☐ Form SB/08 or 1449 ☐ References  
☐ Issue Fee Transmittal  
☐ Maintenance Fee Transmittal \_\_\_\_\_ Year  
☐ Request for Certification for Non-Publications  
☐ Response to Office Action  
☐ Affidavit  
☐ Amendment  
☐ Extension of Time Petition \_\_\_\_\_ Months  
☒ Copy of Decision on Petition \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_  
☐ ATTORNEY: MWS - 34,441

**RECEIVED  
OIPE/IAP**

NOV 02 2005

The information contained in this facsimile is confidential information only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone, and return the original message to us at the above address via the United States Postal Service.

**RECEIVED  
CENTRAL FAX CENTER**

NOV 01 2005

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10634,189
	Filing Date	August 4, 2003
	First Named Inventor	Ronald Nasco
	Art Unit	3751
	Examiner Name	Charles E. Philip
Total Number of Pages in This Submission	Attorney Docket Number	3023.2.1 CIP (misnamed 2.6)

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Copy of Decision on Petition, mailed Oct. 26, 2005		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Starkweather & Associates	Cust No. 48309
Signature	<i>Michael W. Starkweather</i>	
Printed name	Michael W. Starkweather	
Date	11/1/05	Reg. No. 34,441

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:	
Signature	<i>Diann Herring</i>
Typed or printed name	Diann Herring
Date	1 November 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

NOV 01 2005

PTO/SB/17 (12-04V2)

Approved for use through 07/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4918).

# FEE TRANSMITTAL For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 40.00

## Complete if Known

Application Number	10/634,189
Filing Date	August 4, 2003
First Named Inventor	Ronald Nasco
Examiner Name	Charles E. Phillip
Art Unit	3751
Attorney Docket No.	3023.2.1 CIP (misnamed 2.8)

## METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☐ Deposit Account Deposit Account Number: \_\_\_\_\_ Deposit Account Name: \_\_\_\_\_

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-3038.

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	0
Plant	200	100	300	150	160	80	0
Reissue	300	150	500	250	600	300	0
Provisional	200	100	0	0	0	0	0

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 (including Reissues)  
 Each independent claim over 3 (including Reissues)  
 Multiple dependent claims

Fee (\$)	Small Entity Fee (\$)
50	25
200	100
360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
--------------	--------------	----------	---------------

- 20 or HP =	x	=	0
--------------	---	---	---

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
---------------	--------------	----------	---------------

- 3 or HP =	x	=	0
-------------	---	---	---

HP = highest number of independent claims paid for, if greater than 3.

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
--------------	--------------	--	----------	---------------

- 100 =	/ 50 =	(round up to a whole number) x	=	0
---------	--------	--------------------------------	---	---

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Balance of fee for Petition for Unintentionally Delayed Benefit Claim

Fees Paid (\$)

0

40.00

## SUBMITTED BY

Signature	<i>Michael W. Starkweather</i>	Registration No. (Attorney/Agent)	34,441	Telephone	801-272-8368
Name (Print/Type)	Michael W. Starkweather	Date	1 November 2005		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

**RECEIVED**

10-28-05

**RECEIVED  
CENTRAL FAX CENTER**

NOV 01 2005

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.govSTARKWEATHER & ASSOCIATES  
9035 S 1300E  
SUITE 200  
SANDY, UT 84094**COPY MAILED**

OCT 26 2005

**OFFICE OF PETITIONS**In re Application of  
Ronald Nasco  
Application No. 10/634,189  
Filed: August 4, 2003  
Attorney Docket No. 3023.2.6DECISION ON PETITION  
UNDER 37 CFR 1.78(a)(3) AND  
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 12, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the amendment filed November 15, 2004.

The petition is DISMISSED.

A petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (2)

Petitioner has submitted \$1330.00. However, the surcharge fee required to accompany a petition under 37 CFR 1.78 is \$1370.00. See 37 CFR 1.17(t). As such, the petition will not be reviewed on the merits at this time. Petitioner must submit an additional \$40.00.

11/03/2005 WABDELRI 00000064 10634189

01 FC:1454

1370.00 OP

Application No. 10/634,18.

Page 2

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (571) 273-8300  
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.



Frances Hicks  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy